

282. Misbranding of Flu-Go. U. S. v. 9 Dozen Retail Packages of Flu-Go. Default decree of condemnation and destruction. (F. D. C. No. 2389. Sample No. 20240-E.)

The label of this product, in addition to failure to bear adequate warnings, also created the false and misleading impression that it was efficacious as a treatment for flu. Furthermore, the bottle occupied only approximately 37 percent of the space of the carton in which it was packed, and the quantity of contents was not declared.

On or about July 23, 1940, the United States attorney for the Eastern District of South Carolina filed a libel against 9 dozen retail packages of Flu-Go, alleging that the article had been shipped in interstate commerce on or about January 22, 1940, by the Flu-Go Chemical Co. from Bessemer, Ala.; and charging that it was misbranded.

Analysis showed that the article consisted essentially of mineral oil, ephedrine, and aromatics including camphor and rose oil.

It was alleged to be misbranded in that the name "Flu-Go" created the false and misleading impression that it constituted a treatment for influenza; in that the label did not bear an accurate statement of the quantity of the contents; in that the labeling did not bear adequate warnings against use in those pathological conditions or by children where its use might be dangerous to health or against unsafe dosage or methods or duration of administration or application; and in that its container was so made, formed, or filled as to be misleading.

On August 18, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

DRUGS ACTIONABLE BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS OR BECAUSE OF SUBSTITUTION¹

VITAMIN PREPARATIONS

283. Misbranding of Old Man Frantz Mountain Tonic. U. S. v. Charton C. Frantz (Old Man Frantz). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 961. Sample No. 78890-D.)

This product was labeled to indicate that it contained vitamins A and D in amounts sufficient to be of importance in conditions requiring administration of such vitamins; whereas it did not. Its labeling also bore false and misleading representations regarding its efficacy in the conditions indicated below.

On May 27, 1940, the United States attorney for the Western District of Pennsylvania filed an information against Charton C. Frantz, trading as Old Man Frantz at Pittsburgh, Pa., alleging shipment on or about November 17, 1939, from the State of Pennsylvania into the State of Ohio of a quantity of Old Man Frantz Mountain Tonic which was misbranded.

Analysis showed that the article consisted largely of water with small amounts of sugars, alcohol, salicylic acid, cellular plant matter including starch, and a trace of oil. Tests showed that it contained 6 U. S. P. units of vitamin A and 1 U. S. P. unit of vitamin D per cc.

The article was alleged to be misbranded in that the statements, "Contains Vitamins A * * * D * * * Dosage: 1 oz. Each day for normal persons. 2 oz. Each day for those who require an extra amount of Vitamins," borne on the bottle label, were false and misleading in that they represented that the article, in the dosages recommended, would supply the user with vitamins A and D in amounts sufficient to be of importance in conditions requiring the administration of vitamins A and D; whereas the article, in the dosages recommended, would supply the user with not more than one-ninth the amount of vitamin A required by an audit, and not more than one-tenth the minimum dose of vitamin D recommended by the United States Pharmacopoeia.

Misbranding was alleged further in that certain statements in the circular were false and misleading in that they represented that the article was efficacious to increase pep, vim, vigor, and vitality, and would "build up"; that it was a tonic for run-down feeling, nervousness, lack of appetite, and lack of vigor and ambition; that it would aid in maintaining resistance in infections, and would increase the life span; that it was efficacious for poor appetite, dry skin, diarrhea, poor teeth, sterility, weakness, and would stimulate appetite, aid digestion

¹ See also No. 281.